

STATE OF NORTH DAKOTA
WARD COUNTY

IN DISTRICT COURT
NORTHWEST JUDICIAL DISTRICT
CASE NO. 51-C-10-_____

Brian J. Harrigan,

Plaintiff,

vs.

Gregory W. Enerson, Esq., and

Rausch, Sturm, Israel,

Enerson, and Hornik, LLC,

Defendants

COMPLAINT

As a claim for relief, the Plaintiff, Brian J. Harrigan (Consumer), states the paragraphs that follow. As necessary, each paragraph relates to all other paragraphs, without any necessity of repetition.

I. PARTIES.

1. Consumer is a "consumer" as that term is defined in the Fair Debt Collection Practices Act (FDCPA), 15 U.S.C. §1692 et seq.
2. Defendant Gregory W. Enerson, Esq. (Enerson) is a lawyer licensed to practice law in North Dakota, although apparently based in Wisconsin. In the course of

Enerson's practice, he personally and regularly collects or attempts to collect, directly or indirectly, debts owed or due or asserted to be owed or due to another. Enerson tried to collect from Consumer an alleged "debt," as that term is defined in FDCPA. Accordingly, Enerson is a "debt collector" as defined in FDCPA.

3. Defendant Rausch, Sturm, Israel, Enerson, and Hornik, LLC (RSIEH), is a law firm based in Wisconsin with a satellite office in Fargo, North Dakota. RSIEH is likewise a "debt collector" as defined in FDCPA. RSIEH uses instrumentalities of interstate commerce, including USPS mail, to collect or attempt to collect, directly or indirectly, debts owed or due or asserted to be owed or due to another.

II. BACKGROUND FACTS.

4. In 2008, two judgments were entered against Consumer in the Superior Court of San Diego County, California. Consumer never received notice of either California lawsuit. The judgment creditor in each California lawsuit was Capital One Bank (Capital), a credit card company with which Consumer formerly had accounts. The total of the California judgments was about \$2,800.
5. Capital apparently engaged RSIEH and Enerson to

domesticate the California judgments and try to collect them.

6. On about September 11, 2010, Consumer received a notice of garnishment signed by Enerson and purporting to have been filed in Ward County District Court. Consumer's employer at that time, Do-All Metal Fabricating (Do-All), also received a garnishee summons at about the same time. Consumer was so frightened by the prospect of having his wages garnisheed that he resigned his employment with Do-All. Consumer has since found other employment at about \$3 per hour less than he was making at Do-All.
7. In fact, neither Enerson nor RSIEH ever filed a case in North Dakota to enforce the California judgments. The purported garnishee summons and notices were out-and-out frauds. Capital has no judgment against Consumer in North Dakota.

III. FDCA VIOLATIONS.

8. Under FDCA, each of Enerson and RSIEH violated FDCA generally by engaging in a deceptive and abusive debt collection practice, namely triggering the garnishment process without obtaining a North Dakota judgment. Further, each of Enerson and RSIEH specifically violated FDCA, 15 U.S.C. §1692e(2)(A) by falsely representing the

character, amount, or legal status of Consumer's alleged debt. Further yet, each of Enerson and RSIEH specifically violated FDCPA, 15 U.S.C. §1692e(9), by issuing the garnishment documents, falsely implying they had been issued or approved by the Ward County District Court.

IV. DAMAGES.

9. As a result of the FDCPA violations by Enerson and RSIEH, Consumer experienced wounded feelings, mental suffering, humiliation, degradation, and disgrace, as those elements are allowed in measuring compensatory damages under *Stoner v. Nash Finch*, 446 N.W.2d 747, 753 (N.D. 1989). Consumer also experienced lost wages as a result of quitting the Do-All employment. The reasonable value of Consumer's damages is at least \$50,000.00.

V. RELIEF REQUESTED

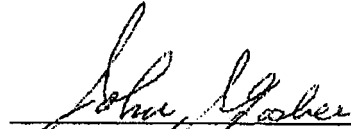
THEREFORE, Consumer asks that the Court award him the relief specified in the paragraphs that follow.

10. For a judgment of at least \$50,000.00 against each of Enerson and RSIEH for violation of FDCPA.
11. For an award of statutory damages of \$1,000.00, attorney fees, and costs for the FDCPA violations.
12. On all issues so triable, for trial by a jury of at least

9 members.

13. For such other relief, legal and equitable, to which Consumer shows he is entitled as supported by the evidence adduced at trial.

Dated October 26, 2010.



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